

Let's set the bar sky high

FRED LeBRUN Commentary

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About the only New Yorkers who are not strongly encouraged by the state Department of Environmental Conservation's latest thinking on regulating hydrofracking for natural gas in our Marcellus shale are those totally opposed to it.

A compelling argument can be made for extending the existing moratorium on hydrofracking in this state for a few more years at least, until we are assured the shocking missteps in Pennsylvania this past spring, using the same technique in the same shale, won't be repeated over our border.

What a cautionary tale that was. Look at what we know now to make us skeptical of hydrofracking and the industry that uses it that we didn't know in 2009 when the DEC issued its first draft environmental review assessment on the subject. How much more would we know three years from now?

But the bald truth is that the pressure to go forward as soon as we can with gas drilling is simply too strong to accommodate that extra measure of prudence. That pressure comes from politicians desperate for revenue sources, from an industry investing billions, from impoverished landowners looking for a payday. Even from the president, advocating natural gas as an alternative to foreign oil.

No, it doesn't make good sense considering what's at stake -- our state's water supply and a long-held cultural appreciation for landscape preservation. But that's politics and big money, and it's no deeper or broader than that. It's not about science, it's not about jobs, which may or may not materialize into anything useful for our economy.

Based on the evidence we witnessed in Pennsylvania, the French government has banned hydrofracking and South Africa has imposed a long-term moratorium, which is essentially the same thing. Where there's political will, wait and see prevails. But the international race to get at those deep deposits of natural gas is on, and if Americans respond to anything, it's competition and the temptation of a very big buck.

All of this is prologue, oddly enough, to high praise for the DEC's excellent work in preparing the way for quite restrictive hydrofracking in this state. Appropriately so. If we have to have it, let's set the bar as high as we can.

I have no doubt that the Pennsylvania lessons, along with a surprisingly robust opposition to hydrofracking altogether, are reflected in the long-awaited revised "draft supplemental generic environmental impact statement." How's that for a bureaucratic mouthful?

At that, it's an incomplete assessment and merely a step in a process that will take us at least through the rest of this year before a final set of rules and regulations governing hydrofracking are in place. Permits to drill to follow.

Between now and then, we will see analyses from the DEC of the social economic impacts on localities, and impacts on noise, transportation and the visual. The 60-day public comment period might well be extended to 90 days. And if the Cuomo administration is as politically astute as we know it to be, there will be public hearings all around the state.

But DEC Commissioner Joe Martens' July 1 announcement of the draft impact statement was a huge step in terms of revealing the DEC's current thinking and attitude on hydrofracking, which will ultimately have much to do with the final rules. What is most apparent is that the DEC has taken a sharp turn toward greater restrictions and higher safety standards from its earlier proposed assessment.

Banning drilling in the New York City and Syracuse watersheds and on primary aquifers, flood plains and all state lands is great news. I don't believe New York City and its Department of Environmental Protection, which closely and jealously monitors the city's water supply, would have tolerated anything less.

As it is, the fragile pipeline transporting upstate water downstate, when it wanders away from the blue-lined watershed corridor, does not get the 7-mile buffer of protection the city has asked for, and that may become an issue.

Look for sharp elbowing and lobbying by the gas industry for as much wiggle room as it can get along that watershed corridor because the richest and deepest deposits of natural gas in New York's Marcellus shale are thought to be in northwestern Sullivan and Delaware counties, right against and inside the watershed.

Responding to casing blowouts and misadventures with spent fracking fluids and contaminated wastewater, the DEC has proposed requiring triple-thick concrete pourings in wells, closed loop systems with no open pools or lagoons and close monitoring of waste to a final destination, "as if it were medical waste."

The Natural Resources Defense Council would like to elevate that one step to hazardous waste, which would require testing as well as monitoring. That sounds good to me. Just because the Bush-era feds gave the oil and gas industries exemptions to the Clean Water Act doesn't mean we have to.

If the spent fracking fluids and deep wastewater were coming from any other industry, they would in all probability qualify as hazardous waste. I can hear the quacking of the duck from here.

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